

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	
	:	Case No. 21-CR-280 (TJK)
	:	
v.	:	
	:	
MICHAEL LEE HARDIN,	:	
	:	
Defendant.	:	

JOINT MEMORANDUM IN SUPPORT OF GUILTY PLEA

Pursuant to a written plea agreement dated August 4, 2021, and signed by defendant Michael Lee Hardin (the “Defendant”) on January 14, 2022, Defendant agreed to plead guilty to Count Four of the Information (Dkt. 7) which charges him with Parading, Demonstrating, or Picketing in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(G). The parties submit the following information in response to the Court’s minute order of November 23, 2021.

I. Elements of the Offense

To prove that the Defendant is guilty of Parading, Demonstrating, or Picketing in a Capitol Building, the government must prove the following beyond a reasonable doubt:

- a. That the Defendant paraded, demonstrated, or picketed;
- b. That the Defendant did so in any of the Capitol Buildings, as defined in 40 U.S.C. § 5101; and
- c. That the Defendant did so willfully and knowingly.

II. Maximum Penalties

The maximum penalties for Parading, Demonstrating, or Picketing in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(G), are:

- a. a term of imprisonment not more than 6 months, *see* 40 U.S.C. § 5109(b);
- b. a fine not to exceed \$5,000, *see* 18 U.S.C. § 3571(b)(6); and
- c. a special assessment of \$10, *see* 18 U.S.C. § 3030(a)(1)(A)(ii).

III. No Right to Trial by Jury for Petty Offenses

A violation of Title 40, United States Code, Section 5104(e)(2)(G) is a class B misdemeanor, as defined by Title 18, United States Code, Section 3559(a)(7). Class B misdemeanors are “petty offenses” pursuant to Title 18 United States Code, Section 19. Accordingly, they do not carry a right to trial by jury. *See* Fed. R. Crim. P. 58(b)(2)(F); *Lewis v. United States*, 518 U.S. 322, 330 (1996) (no right to jury trial for petty offenses).

IV. Sentencing Guidelines

Because the applicable violation is a class B misdemeanor, pursuant to § 1B1.9 of the United States Sentencing Guidelines Manual (2018), the Sentencing Guidelines do not apply to this violation.

Respectfully submitted,

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